

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 8, 2004

DIVISION THREE

[illegible]

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B172625 People (Not for Publication)
v.
Daniel Garcia, Jr.

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

November 8, 2004 (Continued)

DIVISION FOUR

[illegible]

The judgment is affirmed.

Curry, J.

We concur: Epstein, P.J.
Grimes, J. (Assigned)

DIVISION FIVE

B172741 Kevin Trannguyen (Not for Publication)
v.
Gerald Laska

The judgment is modified by increasing the damage award to \$17,359.75. As modified, the judgment is affirmed. Respondent to recover costs.

Grignon, J.

We concur: Turner, P.J.
 Mosk, J.

B177149 Cynthia L. (Not for Publication)
v.
Superior Court, Los Angeles County
(D.C.F.S., r.p.i.)

The petition is denied.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

November 8, 2004 (Continued)

DIVISION FIVE (Continued)

B174999 People (Not for Publication)

$$\mathbf{V}_i$$

Edward Benavidez

The appeal is dismissed.

Grignon, Acting P.J.

We concur: Armstrong, J.

Mosk, J.

B169124 People (Not for Publication)

 \mathbf{V}_i

Albert Macias

The indeterminate sentences for count one, attempted premeditated murder of Jackson in violation of sections 664 and 187, subdivision (a), and count two, attempted premeditated murder of Marquis Meloncon in violation of sections 664 and 187, subdivision (a), are modified: the consecutive prison term of ten years under section 186.22, subdivision (b) (1) is vacated and a minimum eligible parole date of 15 calendar years, pursuant to section 186.22, subdivision (5) (5) is imposed. The sentence for count three is modified to reflect a term of imprisonment for assault with a firearm in violation of section 245, subdivision (a) (2) of three years, a term of imprisonment for the enhancement pursuant to section 186.22, subdivision (b) (1) of five years, and a term of imprisonment for the enhancement pursuant to section 12022.5, subdivision (a) (1) of four years. The sentence for count four is modified to reflect a term of imprisonment for brandishing a firearm at a person in a motor vehicle in violation of section 417.3 of two years and a term of imprisonment for the enhancement pursuant to section 186.22, subdivision (b) (1) of five years. The sentence for count five is modified to reflect a term of imprisonment for evading an officer in violation of Vehicle Code section 2800.2, subdivision (a) of two years and a term of imprisonment for the enhancement pursuant to section 186.22, subdivision (b) (1) of three years. In all other respects, the judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.

Mosk, J.

DIVISION SIX

B167765 People (Not for Publication)
v.
Gomez

The 15-year-to-life sentence on count 10 is vacated and the case is remanded for resentencing on that count. On remand, the court must select the appropriate determinate term (three, six or eight years) and must decide whether the mandatory, full strength sentencing provisions of section 667.6, subdivision (d) apply. If section 667.6, subdivision (d) does not apply, the court must determine whether the sentence on count 10 should run concurrently or consecutively to the other counts, and, if a consecutive sentence is imposed, it must decide whether to impose a full strength sentence under section 667.6, subdivision (c), or the one-third-the-middle-term formula for subordinate terms under section 1170.1, subdivision (a). The judgment is otherwise affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

DIVISION SEVEN

B168077 Gallagher (Certified for Publication)
v.
Connell

The order denying the SLAPP motion is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Zelon, J.

DIVISION SEVEN (Continued)

B167836 Daidone (Not for Publication)
v.
Alchemy Glass & Light

The order granting the motion for a new trial is reversed. The judgment is automatically reinstated and is final. The post-judgment order awarding attorney fees is affirmed. The parties to bear her and its own costs on appeal.

Perluss, P.J.

We concur: Johnson, J.
 Zelon, J.

B170384 Weiss (Not for Publication)
v.
Occidental College et al.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B171399 Ray (Not for Publication)
v.
City of Los Angeles et al.

The judgment is affirmed. Each party to bear their own costs.

Woods, J.

We concur: Johnson, Acting P.J.
Zelon, J.

November 8, 2004 (Continued)

DIVISION SEVEN (Continued)

B169742 People (Not for Publication)
v.
Menjivar

This matter is remanded to the trial court to modify the abstract of judgment in Case No. BA228421 and Case No. BA226376 as follows: in Case No. BA228421 the abstract should be corrected to reflect only three (3) days of actual credit. In Case No. BA226376, the abstract should be corrected to reflect five hundred and forty-two (542) days of actual custody credit. The court is further ordered to direct the Clerk of the Superior Court to send the new abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
 Zelon, J.

B171448 People (Not for Publication)
v.
Sedillo

The judgment is modified to strike the conviction for carjacking that previously had been stayed pursuant to Penal Code section 654. The clerk of the superior court is ordered to prepare an amended abstract of judgment as set forth in this opinion and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

DIVISION SEVEN (Continued)

B170274 People (Not for Publication)
v.
Rabb

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B160750 People (Not for Publication)
v.
Ortega

The judgment is affirmed. This matter is remanded to the trial court. On remand, the trial court is directed to vacate the abstract of judgment; and to order the Clerk of the Superior Court to prepare a new abstract of judgment consistent with this opinion. The court is further ordered to direct the Clerk of the Superior Court to send the new abstract of judgment to the Department of Corrections.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B174820 People (Not for Publication)
v.
Jones

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

November 8, 2004 (Continued)

DIVISION SEVEN (Continued)

B175250 People
v.
Cox

(Not for Publication)

The judgment is affirmed.

Woods, J.

We concur: Johnson, Acting P.J.
Zelon, J.

DIVISION EIGHT

B171660 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Maria G.

The Order appeal from is affirmed.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

B174760 People (Not for Publication)
v.
Francisco E.

The judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

DIVISION EIGHT (Continued)

[illegible]

The judgment is affirmed in part and reversed in part. The case is remanded to the trial court for resentencing. The trial court shall prepare an amended abstract of judgment and forward it to the appropriate prison authorities.

Cooper, P.J.

We concur: Boland, J.
 Flier, J.

[illegible]

The order under review is reversed. On remand, the trial court shall determine appellants' motion under Code of Civil Procedure section 425.16, on the merits, as well as any entitlement to and amount of attorney fees under subdivision (c) of that section. Appellants shall recover costs on this appeal.

Cooper, P.J.

We concur: Boland, J.
Flier, J.

November 8, 2004 (Continued)

DIVISION EIGHT (Continued)

B168138 Kates, (Not for Publication)
v.
Ed Grush General Contractor, Inc.

The judgment is reversed. Respondent shall bear costs on appeal.

Cooper, P.J.

We concur: Boland, J.
Flier, J.